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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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CONTENTS

Week in Review	02
House Committee Action	04
Bills Introduced in the House This Week	06

WEEK IN REVIEW

HOUSE

The House of Representatives approved and sent to the Senate two measures that would **SHORTEN THE LEGISLATIVE SESSION**. The House approved H.3138, a joint resolution proposing an amendment to the South Carolina Constitution that would revise the time the General Assembly is required to convene at the beginning of each year. Under the joint resolution's proposal, the General Assembly would continue to convene in the State Capitol on the second Tuesday in January in even-numbered years (in the middle of a General Assembly's two-year session), but would convene a month later, the second Tuesday in February, in odd-numbered years (at the beginning of a General Assembly's two-year session). H.3138 provides for meetings of the Senate and House of Representatives in even-numbered years for the purposes of organization and electing officers. During odd-numbered years the officers of the House and Senate would convene on the second Tuesday in January for not more than two days in order to 1) accept any bills or resolutions introduced by a member, and 2) refer the bills and resolutions to the appropriate committees.

The House also approved and sent to the Senate H.3139, a bill that would shorten the legislative session by changing the date for *sine die* adjournment of the General Assembly from the first Thursday in June to the second Thursday in May. Current law provides that in any year the House of Representatives fails to give third reading to the appropriations bill by March 31, the date of *sine die* adjournment is extended by one statewide legislative day for each statewide legislative day after March 31 that the House of Representatives fails to give the bill third reading. H.3139 retains this system of extending the legislative session, but changes the date for House adoption of the appropriations bill from March 31 to March 15.

The House amended, approved, and sent to the Senate H.3053, a bill pertaining to the means by which the state or its political subdivisions may recover losses that result from **EMBEZZLEMENT OR MISAPPROPRIATION OF PUBLIC FUNDS OR PROPERTY**. As amended, this bill creates a general lien upon any public retirement or pension plan not governed by ERISA (the Employee Retirement Income Security Act of 1974) of any public officer, public employee, or any other person who is convicted of an offense involving embezzlement or misappropriation of public funds or public property to the private use of himself/herself or any other person. The lien is to the extent of the total loss, damage, and expense to the State, to a county or municipality, or to any agency or political subdivision of the State, or to any state, county or municipal agency, any college or university, or to any school, special or public service district within the State, that is authorized by law to perform a governmental function or provide a governmental service. The bill provides that the

lien attaches upon the date of conviction and establishes other provisions regarding the duration of the lien. In addition to any to any other sentence imposed upon a person for embezzlement, H.3053 allows the presiding judge the option to require full restitution of all public funds embezzled and full payment for the conversion, use, and value of public property appropriated to private use. Also under H.3053, the presiding judge may provide for an indeterminate sentence of incarceration or probation, or both until restitution in full has been made. As amended, the bill provides that application of these measures is to be retroactive as well as proactive. In cases where a living individual has been convicted of a pertinent offense, the lien attaches to applicable public retirement or pension plans immediately upon approval of the act by the Governor.

The House approved and sent to the Senate H.3052, a bill relating to **JUDICIAL VACANCIES**. Current law requires only that the Judicial Merit Selection Commission notify the public about judicial vacancies. This bill requires the Judicial Merit Selection Commission, in a timely fashion, to send a news release to each newspaper of daily circulation in the state that contains the names of the candidates as well as the date, place, and time of judicial screening hearings. The news release must contain a statement about the importance of public input in the screening process. Under the bill, the Judicial Merit Selection Commission is required to (1) request of each newspaper that the news release be published on at least one-half of one newspaper page, and (2) send the news release to applicable bar organizations.

The House approved and sent to the Senate H.3107, a bill dealing with **MAGISTRATES' COURT JURISDICTION**. This bill provides that magistrates have concurrent jurisdiction of interpleader actions filed over claims of disputed real estate earnest money. This bill provides the form and wording of the interpleader pleading to be used in real estate earnest money disputes in magistrates' court. Additionally, this bill provides that the failure of a competing claimant to recover in an interpleader action must not be considered a judgment claim against the claimant or used to impair the credit of a claimant.

The House approved and sent to the Senate H.3027. This bill provides that a **REGULATION** not approved or disapproved within two years of being submitted for General Assembly review must be refiled by the promulgating agency as a new regulation in accordance with the Administrative Procedures Act.

The House also approved and sent to the Senate H.3109, a bill that makes a technical correction to provisions that authorize a dental hygienist or a dental assistant who works under the direct supervision of a dentist to monitor a patient who receives **NITROUS OXIDE**. This bill revises the terminology that describes the use of nitrous oxide by eliminating the term "anesthesia," and substituting the term, "inhalation conscious sedation (dental analgesia)."

SENATE

The Senate gave third reading to **H.3282**, a bill pertaining to a **WAIVER FOR THE CRITICAL NEED TEACHER CERTIFICATION PROGRAM**, and the bill was ordered enrolled for ratification. Language approved in a temporary provision of the Fiscal Year 2000-2001 General Appropriations Act, provides that for individuals with work experience and content area degree, but who lack South Carolina teaching credentials, the State Board of Education, for the Critical Need Teacher Certification Program, is authorized to waive, for an individual program eligibility purposes, the satisfactory completion of the Praxis II subject area exam for up to six months after the first day of employment. The bill extends the six- month maximum to twelve months.

S.177, the "**SOUTH CAROLINA EDUCATION LOTTERY ACT**," was read for the first time and referred to the Senate Judiciary Committee. The House companion bill is **H.3307**; the House companion bill was referred to the House Ways and Means Committee. For a summary of this legislation, please see the summary of **H.3307** listed under the Bills Introduced in the House section of this document.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full House Agriculture, Natural Resources, and Environmental Affairs Committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee met to receive a briefing from William Barnett, III, Chair of the Education Oversight Committee (EOC), and Dr. Jo Anne Anderson, Executive Director of the EOC. The EOC is an independent, non-partisan group appointed by the legislature and the Governor to enact the South Carolina Education Accountability Act (EAA) of 1998, an Act which sets standards for improving the State's K-12 educational system.

The briefing included a discussion of the **EOC'S GOAL THAT SOUTH CAROLINA'S STUDENT ACHIEVEMENT BE RANKED IN THE TOP HALF OF STATES NATIONALLY BY THE YEAR 2010**, a goal which can be reached only if South Carolina's system becomes one of the five fastest improving systems in the country. Mr. Barnett and Dr. Anderson updated the Committee on the **STATUS OF IMPLEMENTATION OF THE EAA** in the areas of standards; assessments; professional development and technical assistance; public reporting; and rewards and sanctions, and the EOC's

involvement with implementation of the Parental Involvement in their Children's Education Act of 2000.

JUDICIARY

The Judiciary Committee gave a favorable recommendation to **H.3052**, a bill relating to **JUDICIAL VACANCIES**. Current law requires that the Judicial Merit Selection Commission only has to notify the public about judicial vacancies. This bill requires the Judicial Merit Selection Commission, in a timely fashion, to send a news release to each newspaper of daily circulation in the state that contains the names of the candidates as well as the date, place, and time of judicial screening hearings. The news release must contain a statement about the importance of public input in the screening process. Under the bill, the Judicial Merit Selection Commission is required to (1) request of each newspaper that the news release be published on at least one-half of one newspaper page, and (2) send the news release to applicable bar organizations.

H.3107, a bill dealing with **MAGISTRATES' COURT JURISDICTION**, received a favorable report from the Judiciary Committee. This bill provides that magistrates have concurrent jurisdiction of interpleader actions filed over claims of disputed real estate earnest money. This bill provides the form and wording of the interpleader pleading to be used in real estate earnest money disputes in magistrates court. Additionally, this bill provides that the failure of a competing claimant to recover in an interpleader action must not be considered a judgment claim against the claimant or used to impair the credit of a claimant.

The Judiciary Committee gave a favorable recommendation to **H.3027**. This bill provides that a **REGULATION** not approved or disapproved within two years of being submitted for General Assembly review must be refiled by the promulgating agency as a new regulation in accordance with the Administrative Procedures Act.

The Judiciary Committee adjourned debate on **H.3131**. Currently, the statute of limitations for commencing an action for **ASSAULT AND BATTERY** is two years. This bill increases the statute of limitations to three years.

H.3032, a bill relating to the **REPRESENTATION OF A CORPORATION IN MAGISTRATES' COURT**, was recommitted to the Special Laws Subcommittee. Under this bill, a professional corporation may designate in writing an employee or agent who may represent the corporation in magistrates' court. Notwithstanding any other provision of law, the person designated, while representing the corporation in magistrates' court, is not engaged in the unauthorized practice of law.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee took up **H.3257**, a bill pertaining to the **LICENSURE AND REGULATION OF MORTGAGE LOAN BROKERS**. The Committee reported out a revised version of this legislation as a committee bill, **H.3360**. This legislation transfers administrative control of the state's mortgage loan brokers from the Department of Consumer Affairs to the Department of Labor, Licensing and Regulation (LLR), establishing the South Carolina Board of Mortgage Loan Brokers under LLR. The legislation provides for other revisions such as eliminating the current \$10,000 bond requirement and converting compliance with fee payment and continuing education requirements from an annual to a biennial schedule. The bill requires companies to be registered and brokers to be licensed, as opposed to the current system under which a company is licensed and the broker and employees are registered under the company. The bill also provides that each mortgage loan brokerage office must employ a licensed broker. Current law only requires one broker per company, which might have offices in multiple locations.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The Medical, Military, Public and Municipal Affairs Committee gave a favorable report to **H.3109**, a bill that makes a technical correction to provisions that authorize a dental hygienist or a dental assistant who works under the direct supervision of a dentist to monitor a patient who receives **NITROUS OXIDE**. This bill revises the terminology that describes the use of nitrous oxide by eliminating the term "anesthesia," and substituting the term, "inhalation conscious sedation (dental analgesia)."

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3335 NO WAKE ZONE ON LITTLE PEE DEE RIVER Rep. Battle

This bill establishes a no wake zone on all of that portion of the Little Pee Dee River beginning at the Highway 76 bridge across the Little Pee Dee River and extending northwest to the headwaters of the Little Pee Dee River.

H.3343 REQUIRED EQUIPMENT FOR DEER HUNTERS Rep. Davenport

This bill provides that on all wildlife management area lands and lands within the Central Piedmont, Western Piedmont, and Mountain Hunt units during the gun hunting season for deer, all hunters must wear either a hat, coat, shirt, or vest at least one-half of which is solid visible international orange. Hunters are exempt from this requirement while hunting for dove, duck, and turkey. Small game hunters while hunting at night or on privately owned lands with the hunt unit are also exempt.

H.3354 TEST FOR EQUINE INFECTIOUS ANEMIA Rep. Bales

This bill revises testing required for public assembly of horses, so as to require the Coggins Test or other test for equine infectious anemia be administered only once every twenty-four months rather than once every twelve months.

H.3356 PLACEMENT OF TOBACCO PRODUCTS Rep. J. Brown

This bill provides that a person who sells tobacco products including, but not limited to, cigarettes, cigars, tobacco, and cigarette papers must keep these tobacco products behind a counter so as to be out of reach from a customer or patron.

H.3359 SALE OF DEER OR DEER PARTS Rep. Ott

This bill provides that it is unlawful to buy or sell, offer for sale, barter, or have in possession for sale the following: any live deer (family cervidae), the venison of any deer except as provided in Section 50-11-1920, any whitetail deer gametes, or any complete whitetail deer antlers. Unless specified in this section, the sale of deer parts is not prohibited.

H.3361 PROTECTION OF DOLPHINS AND PORPOISES Rep. Scarborough

This bill provides that, except when authorized by a federal permit, it is unlawful for any person to catch, attempt to catch, feed, feed by hand, molest, injure, kill, annoy, harass, or interfere with the normal activity and well-being of any mammalian dolphin or porpoise. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred fifty dollars nor more than one thousand dollars or imprisoned for not more than thirty days, or both.

EDUCATION AND PUBLIC WORKS

H.3306 ISSUANCE/RENEWAL OF DRIVER'S LICENSES Rep. Altman

This bill prohibits the Department of Public Safety from issuing a driver's license to or renewing the driver's license of, an illegal alien.

H.3323 SALES AND USE TAX/TOLL ORDINANCES Rep. Rodgers

This bill provides that if the imposition of a sales and use tax or toll ordinance imposed by counties as a revenue source for transportation is not approved at a referendum, the governing body of the county may call for another referendum.

H.3336 STATUTORY SCHOOL TERMS Rep. Robinson

This bill revises the current statute which provides for a school term of one hundred ninety days annually with additional days being added beginning with school year 2001-02 subject to funding being provided by the General Assembly. The bill revises the purposes for which certain noninstructional days must be used and deletes the provisions which add extra days to the statutory school term beginning with school year 2001-02 subject to funding being provided by the General Assembly.

H.3364 HIGH SCHOOL DIPLOMA STANDARDS Rep. Taylor

This bill requires that if any state licensing, appointment, election, admission, employment, or other procedure requires possession of a high school diploma or its equivalent, no such diploma or certificate shall be acceptable unless the State Board of Education certifies that the standards of the institution granting the diploma or certificate or the standards of any testing, the results of which are the basis for granting the diploma or certificate, are at least comparable to those of this State.

H.3368 STUDENT SOCCER PARTICIPATION Rep. Easterday

This bill provides that students who participate in interscholastic soccer or as a member of a school squad may participate in organized soccer which is independent of the control of the school under certain circumstances. The bill provides that a school or student is not ineligible for participation in interscholastic soccer because of the participation of the student of the school as a member of an organized soccer team, during the interscholastic soccer season.

JUDICIARY

S.114 SENATE MANAGEMENT AND OPERATIONS COMMITTEE

Sen. McConnell

This bill increases the number of members on the Senate Management and Operations Committee from seven to nine.

H.3302 ADOPTIONS PROCEDURE STUDY COMMITTEE Rep. Leach

This joint resolution creates an Adoptions Procedure Study Committee. The committee is charged with reviewing the adoption process and procedures. The committee's review must include, but is not limited to, what effect a voluntary relinquishment of parental rights should have on a parent's duty to pay child support before the adoption is finalized and in whose custody is a child whose parents' voluntary relinquishment of parental rights was obtained by a private attorney. The committee must submit its report containing its findings and recommendations to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives before January 1, 2002.

H.3303 RATIFICATION OF LOTTERY AMENDMENT Rep. Scott

This bill ratifies the lottery amendment to the South Carolina Constitution that was submitted to the voters at the general election of 2000. This bill deletes references to the prohibition on lotteries, their advertising, and ticket sales; the bill further

provides that lotteries may be conducted only by the state. Under the bill, the revenue derived from the lotteries must first be used to pay all operating expenses and prizes for the lotteries. The remaining lottery revenues must be credited to a separate fund in the state treasury styled the 'Education Lottery Account', and the earnings on this account must be credited to it. Education Lottery Account proceeds may be used only for education purposes as the General Assembly provides by law.

H.3304 "THE UNIFORM ATHLETE AGENTS ACT OF 2001" Rep. Harrison

This bill enacts "The Uniform Athlete Agents Act of 2001." This bill outlines procedures for applications, registration and renewal of registration for athletic agents. The bill provides for service of process upon individuals acting as athletic agents in this state. The bill outlines the duties of the Secretary of State relating to applications for registration and issuance of temporary certificates and certificates of registration to athletic agents and for the non-renewal, suspension and revocation of certificates of registration after notice and opportunity for a hearing. Additionally, the bill outlines what an agency contract must state or contain, and the bill requires a warning to student athletes of certain rights and consequences of signing an agency contract. This bill outlines circumstances when an agency contract is voidable and for when a student athlete may cancel an agency contract. This bill requires an athlete agent to retain certain records for five years, and the bill provides for the inspection of those records. Under this bill, an athlete agent may not make certain representations or furnish anything of value to student athletes with the intent to induce a student athlete to enter into an agency contract. This bill provides that an educational institution has a right of action against an athlete agent or former student athlete for damages caused by a violation of this legislation. The bill provides for civil and criminal penalties for certain violations of this legislation.

H.3309 "S.C. CAMPUS SEXUAL ASSAULT INFORMATION ACT"

Rep. Cobb-Hunter

This bill enacts the S.C. Campus Sexual Assault Information Act, which requires institutions of higher learning in this State to develop, publish, and implement policies and practices to promote prevention, awareness, and remedies for campus sexual assault. The bill specifies areas that must be addressed in the policy, including education programs to promote prevention and awareness of sexual assault, possible sanctions following an institution's disciplinary procedure in the event of sexual assault, and procedures a student follows if a sexual assault occurs.

H.3314 EMPLOYEE ACCESS TO PERSONNEL RECORDS Rep. Cobb-Hunter

This bill states that an employee has the right to examine and obtain copies of the contents of his or her personnel record at any reasonable time. An employee does not have the right, under this legislation, to inspect investigative records on possible criminal offenses, letters of reference, test documents other than cumulative test scores, or personal information about other employees. An employer must comply with an employee's request to examine his or her personnel record within ten days of receipt. The bill establishes conditions for the examination and copying of personnel records, provides a procedure for including within the file a written rebuttal where the employee disagrees with information found in the file, and

requires an employer to maintain a complete for personnel file on an employee for at least three years after termination of the employee. The bill establishes penalties for an employer's failure to comply. An employer may not discharge or discriminate against an employee who asserts that an employer has violated these provisions. Penalties are provided for employers who discharge or discriminate against an employee in violation of the legislation.

H.3315 REPRESENTATION OF THE STATE BY PRIVATE LEGAL SOURCES
Rep. Cobb-Hunter

Before the Attorney General may enter into a contract with a private source to provide legal representation for the State, a State agency, State department, State division, or State institution, this bill requires the Attorney General to solicit competitive bids from at least three private legal sources.

This bill creates a five-member Board of Review for purposes of establishing a roster of private legal sources that are pre-approved to bid on these contracts. This bill describes in detail the duties of the Board of Review. This bill provides the method in which board members will be chosen, and the bill provides that board members' term of office will be three years.

This bill requires the Attorney General to obtain approval from the State Budget and Control Board before entering into a contract for private legal representation of the State, a State agency, State department, State division, or State institution. This bill further states that the State Budget and Control Board may not withhold approval unreasonably.

H.3317 FRAUDULENT CHECKS Rep. Cobb-Hunter

Under this bill, the provisions of *South Carolina Code of Laws* §34-11-60, relating to drawing and uttering any fraudulent check, draft, or other written order, does not apply to a check given to a deferred presentment service or a check cashing service. This bill also provides that a commercial agent for collection of an obligation paid for with any fraudulent check, draft, or other written order does not have the same rights as the original payee unless the check, draft, or other written order has been endorsed over to the agent for collection for value and without reservation of rights. This bill further provides that neither check cashing services or deferred presentment services may rely on the civil and criminal remedies available in Chapter 11, Title 34, for prosecuting or civilly enforcing payment of a fraudulent check.

H.3324 THE SOUTH CAROLINA ADVISORY COMMISSION ON
INTERGOVERNMENTAL RELATIONS Rep. Perry

This bill repeals Chapter 27, Title 1, relating to The South Carolina Advisory Commission On Intergovernmental Relations.

H.3328 INVESTIGATION OF A TRAFFIC COLLISION INVOLVING A LAW ENFORCEMENT OR DEPARTMENT OF PUBLIC SAFETY MOTOR VEHICLE Rep. Harrison

This bill relates to the investigation of a traffic collision involving a law enforcement or department of public safety motor vehicle. Under this bill, a law enforcement agency which has primary responsibility for an investigation, but lacks expertise to conduct a proper investigation involving an employee of another department or agency, may request assistance from another agency that has the appropriate expertise under certain circumstances.

H.3329 DEFINITIONS FOR PURPOSES OF THE SETOFF DEBT COLLECTION ACT Rep. Cobb-Hunter

This bill relates to definitions for purposes of the Setoff Debt Collection Act, so as to extend the definition of "political subdivision" to include the South Carolina Association Of Housing Authority executive directors.

H.3330 SUBSTITUTION OF A CANDIDATE WHERE A PARTY NOMINEE DIES, BECOMES DISQUALIFIED, OR RESIGNS FOR A LEGITIMATE NONPOLITICAL REASON Rep. Cobb-Hunter

This bill relates to substitution of a candidate where a party nominee dies, becomes disqualified, or resigns for a legitimate nonpolitical reason, so as to provide that an appeal from an election must be to the circuit court of the county in which the affidavit is filed stating the legitimate nonpolitical reason for withdrawing as a candidate.

H.3332 OUTSTANDING VOUCHERS IN THE OFFICE OF INDIGENT DEFENSE'S APPELLATE CONFLICT FUND Rep. Harrison

This is a joint resolution to make payments of outstanding vouchers in the Office Of Indigent Defense's Appellate Conflict Fund from July 1, 1993, through July 31, 2000, for total reimbursement not exceeding thirty-five thousand dollars. The joint resolution provides that requests for compensation must be submitted no later than ninety days after the effective date of this provision.

H.3333 DRIVER'S LICENSES FOR ILLEGAL ALIENS Rep. Chellis

Under this bill, a person who is an illegal alien may not be issued a driver's license or have his or her driver's license renewed.

H.3342 VIOLENT CRIMES Rep. Davenport

Under this bill, (1) assault and battery of a high and aggravated nature, and (2) causing great bodily injury or death by operating a motor vehicle while under the influence of alcohol or another controlled substance are violent crimes.

H.3358 POWERS OF LOCAL SCHOOL BOARDS OF TRUSTEES Rep. Kirsh

This bill provides that the school board has authority to petition the family court, and the family court has jurisdiction to hear a petition, to require parents or legal guardians of students who habitually exhibit disruptive behavior in their classrooms to attend parent-teacher conferences.

H.3363 CHILD LABOR PRACTICES Rep. Jennings

This bill relates to the promulgation of regulations concerning the prohibition against oppressive child labor practices. Specifically, this bill deletes the requirement that such regulations may not be more restrictive or burdensome than federal law.

H.3365 SHERIFF OR DEPUTY SHERIFF ACTING AS AN ATTORNEY

Rep. Harrison

Under this bill, a sheriff or deputy sheriff who is licensed to practice law in this State may act as an attorney on behalf of the agency in which he or she serves as long as his or her representation is limited to representing or defending that agency in a court of law, or when appointed as a special prosecutor.

H.3367 PRESIDENTIAL ELECTORS Rep. Altman

This bill provides that a presidential elector is deemed to have irrevocably voted for a candidate at the time he or she declares for a candidate, and that vote must be recorded as that elector's vote if elected. Also, the bill deletes inconsistent provisions.

H.3370 FILING FEES FOR CANDIDATES Rep. Vaughn

This bill relates to the certification of names of primary candidates, so as to require a filing fee of a candidate whose name is on the ballot in the general election without running in a primary. The bill excludes school board primaries.

LABOR, COMMERCE, AND INDUSTRY

H.3308 HOME-SERVICE DISTRIBUTION OF INSURANCE Rep. Cobb-Hunter

This bill imposes certain reporting requirements on those who sell insurance policies through the home-service system of distribution. In home service distribution arrangements, the seller generally markets the policy and collects the premium in the purchaser's home or workplace. The bill defines as deceptive acts certain practices in which the insurer transfers premiums without the authorization of the policy owner.

H.3310 INSURANCE COVERAGE FOR CONTRACEPTION Rep. Cobb-Hunter

This bill provides that an individual or group health and accident insurance plan or health maintenance organization may not exclude or restrict benefits for federally-approved contraceptive drugs or devices or outpatient contraceptive services, if the policy or plan provides benefits for other outpatient drugs, devices, or services. Such insurance policies may not discriminate against individuals or health care providers for use of such contraceptive benefits. Such insurers may not make use of rebates, incentives, different deductibles, coinsurance, or other cost sharing or limitations in a way that discourages the use of contraceptive benefits.

H.3313 PRICE GOUGING DURING DECLARED STATES OF EMERGENCIES

Rep. Cobb-Hunter

This bill revises the South Carolina Unfair Trade Practices Act so as to prohibit the rental and sale of essential commodities and rental and lease of temporary lodging

units or self-storage facilities at unconscionable prices during and within the area of a declared state of emergency. The bill establishes evidentiary standards and provides both civil and criminal penalties.

H.3319 PERPETUAL CARE CEMETERIES Rep. Sandifer

This bill establishes the South Carolina Perpetual Care Cemetery Board under the Department of Labor, Licensing and Regulation. Provisions are conformed to the statutory organizational framework established for professional and occupational boards under the administration of the Department. The bill further provides for the licensure and regulation of cemetery companies and establishes penalties for certain violations.

H.3340 FIRE AND SAFETY INSPECTIONS Rep. Davenport

This bill provides that a building inspector in the jurisdiction in which a public building is located may conduct a fire and safety inspection for the building and submit his report to the State Fire Marshall.

H.3366 VACATION TIME-SHARING UNITS Rep. Snow

This bill provides that no owner of an interest in a vacation time-sharing unit may be charged an up-front appraisal fee for the resale of his ownership interest but instead may only be charged a marketing fee or commission upon the resale of the unit in an amount stipulated by written agreement between the owner and his sales agent. Any person violating the provision is deemed to have committed an unfair trade practice under and is subject to all penalties and remedies provided by law for this violation.

H.3371 WORKERS' COMPENSATION FOR CARDIAC INCIDENTS OF LAW ENFORCEMENT OFFICERS Rep. Law

This bill establishes conditions under which cardiac incidents occurring in law enforcement officers are presumed to arise out of and in the course of employment for purposes of the Workers' Compensation law.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3341 TASK FORCE STUDY OF BEHAVIORALLY CHALLENGING ADOLESCENTS AND AGING PARENTS Rep. Davenport

This joint resolution establishes a task force to identify in-state and out-of-state residential and outpatient programs and resources available to aid families in managing behavioral, mental, and emotional problems of adolescents and aging parents. The bill provides for the membership and staff support of the task force. The task force shall submit a report or recommendations to the Governor and General Assembly before January 1, 2003, at which time the task force is abolished.

WAYS AND MEANS

H.3307 "SOUTH CAROLINA EDUCATION LOTTERY ACT" Rep. Scott

This comprehensive bill establishes a state lottery, creates entities to conduct and oversee the state lottery, and provides for use of the lottery proceeds.

The bill creates the South Carolina Education Lottery Corporation (the Corporation) and empowers it to carry out the provisions of the bill. As provided in the bill, the Corporation would be an instrumentality of the State, with powers comparable to those exercised by corporations engaged in entrepreneurial pursuits. The Corporation and its employees would be subject to the S.C. Consolidated Procurement Code, the S.C. Ethics Reform Act, and the S.C. Freedom of Information Act. The Corporation would be governed by a seven-member board of directors, appointed for a four-year term by the Governor with the advice and consent of the Senate. The bill outlines required qualifications for board members and provides further considerations that the Governor shall employ in making appointments to the board. A board member may be removed only for reasons of malfeasance, misfeasance, incompetence, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity.

The bill provides that the board of directors will appoint and provide for the compensation of a chief executive officer (CEO), who would serve at the pleasure of the board and who would direct the day-to-day operations and management of the corporation.

The bill provides that net lottery proceeds and interest earnings must be used to support improvements and enhancements for **educational purposes and programs** and must supplement, not supplant, existing educational resources. "Educational purposes and programs" are defined in the bill as: (1) scholarships and financial aid to our State's students to allow them to attend public or independent educational institutions of higher learning located in South Carolina and (2) providing and updating instructional technology for public education and higher education in South Carolina.

Other significant provisions of the bill include, but are not limited to, the following:

- No video poker or video lottery terminals are permitted.
- Approximately fifty percent of money from ticket sales must be made available as prize money.
- Of the remaining funds, after maintaining a reserve account from the first funds received, appropriations are delineated in a priority order, as follows:
 - ✓ **Free tuition at state technical colleges and two-year public institutions** with \$20 million appropriated for this purpose in 2001-02, \$40 million in 2002-03; for fiscal years after 2002-03, the bill provides that the S.C. Budget and Control Board may increase the annual amount to account for

Legislative Update, January 30, 2001

inflation and enrollment growth in an amount certified by the Board of Economic Advisors; at least \$6 million of the needs-based grants generated by the S.C. Education Lottery must be designated to help offset the cost of attendance of Pell grant recipients at public two-year institutions.

- ✓ **Funding for the S.C. HOPE Scholarship Program** (established in the bill) in the amount of \$20 million for fiscal year 2001-02, \$40 million for fiscal year 2002-03; for fiscal years after 2002-03, the bill provides that the S.C. Budget and Control Board may increase the annual amount to account for inflation and enrollment growth in an amount certified by the Board of Economic Advisors;
 - ✓ Beginning with fiscal year 2002-03, \$16 million is appropriated for **needs-based grants**, and \$6 million is appropriated for **tuition grants**;
 - ✓ Beginning with fiscal year 2002-03, \$8 million is appropriated for **teacher scholarship programs** as established in the bill;
 - ✓ Beginning with fiscal year 2002-03, \$45 million is appropriated for **school technology funding** (as provided in the bill).
- Proceeds of any lottery prize would be subject to South Carolina state income tax.
 - The South Carolina Education Lottery Corporation Oversight Committee would be created to review periodically the operations of the South Carolina Education Lottery Corporation.
 - The corporation must submit quarterly and annual reports to the Governor, legislative leadership, State financial officials, and the South Carolina Education Lottery Corporation Oversight Committee. It must also adopt a system of internal audits and contract for an annual outside financial audit of the Corporation.
 - The South Carolina Education Lottery Corporation must promote fair and responsible play, including disclosure of the odds of winning. Funding is provided for services for people with gambling addictions.

H.3311 PUBLIC EDUCATION FUNDING

STUDY COMMITTEE Rep. Cobb-Hunter

This bill creates a public education funding study committee, to study South Carolina's system of funding public education in grades K-12. The bill provides for composition of, and terms of service for, the ten member committee, and requires that the committee report its findings and recommendations to the Governor and the General Assembly on January 15, 2002, at which time the committee shall dissolve. The bill provides that the committee will be staffed by appropriate standing committees of the General Assembly, employees of the State Department

of Education, school districts, and other appropriate agencies as determined by the committee.

H.3312 EDUCATION FINANCE REVIEW COMMITTEE Rep. Cobb-Hunter

This bill adds to the responsibilities of the existing Education Finance Review Committee the charge of conducting a study of the funding formulas for public education in South Carolina to determine if they are adequate and equitable, and the issue of unfunded mandates caused by new educational initiatives. The bill requires that the Committee report its findings to the General Assembly by January 15, 2002.

H.3316 PROPERTY TAX EXEMPTIONS Rep. Cobb-Hunter

This bill provides an exemption from *ad valorem* taxation for a mobile home occupied by its owner who is sixty-two years of age or older as his legal residence.

H.3331 STATE FLEET VEHICLES Rep. Cobb-Hunter

This bill provides that before certain state fleet vehicles are disposed of, the vehicle must be offered for purchase to heads of households receiving Aid to Families with Dependent Children (AFDC) or to agencies working with families receiving AFDC, for the purpose of helping these families become self-sufficient.

**H.3134 WITHHOLDING OF PRIZE WINNINGS
FOR STATE INCOME TAX Rep. Clyburn**

This bill provides that as related to state income tax withholding for prizes of \$500 or more, the prize recipient may have the person distributing the prize pay the amount withheld to the recipient's choice of public school or school district, or public institution of higher learning of this state.

**H.3338 APPROPRIATIONS FOR NEW,
RECURRING PROGRAMS Rep. Davenport**

This bill provides that appropriations for new, recurring programs, or additional appropriations for an existing recurring program or expense above the rate of inflation, must include a statement from the primary sponsor detailing the objectives of the program, the target date of meeting the objectives, and annual measures for determining progress toward the objectives. The bill provides that if the progress measure is not met, the appropriation may not be included in the next four appropriation acts. The bill also provides that for any provision in the appropriation bill or any amendment thereto requiring such a statement to be in order, the statement must receive at least a two-thirds vote of a joint House-Senate standing committee, which committee is established in the bill.

H.3339 PROPERTY TAX EXEMPTIONS Rep. Davenport

This bill provides an exemption from property tax for one personal motor vehicle owned or leased by a legal guardian *or caretaker* of a *dependent* who is blind *or otherwise medically disabled from operating a motor vehicle* or who is required to use a wheelchair when the vehicle is used to transport the dependent. Current law provides such an exemption for a personal motor vehicle owned or leased by a legal guardian (not a caretaker) of a *minor* who is blind or is required to use a wheelchair

when the vehicle is used to transport the minor. The bill also provides definitions for "dependent" and "caretaker."

H.3344 ADOPTION OF 1986 INTERNAL REVENUE

CODE PROVISIONS Rep. Davenport

This bill revises current law relating to provisions of the Internal Revenue Code of 1986 which are specifically not adopted for purposes of the S.C. Income Tax Act. The bill deletes references to the net operating loss carryback. The bill also revises current provisions relating to the computation of S.C. taxable income by providing that the carryback of a net operating loss deduction for federal income tax purposes is also allowed for state income tax purposes and the federal election to carry back a net operating loss is not binding for S.C. income tax purposes. A carryback is a provision in tax law which permits taxpayers to apply net operating loss in one year to recomputation of tax of several preceding taxable years.

H.3348 TARGETED JOBS TAX CREDIT Rep. Robinson

This bill provides that for a job created in a county which is not traversed by an interstate highway, the job tax credit is one tier higher than the credit for which jobs created in the county would otherwise qualify. The bill specifies that this provision does not apply to a job created in a county eligible for a higher tier under any other provision of *S.C. Code of Laws* Section 12-6-3360(B)(5), which relates to counties located within a prescribed distance of the boundaries of a military installation or federal facility which has been closed or realigned.

H.3349 PROPERTY TAX EXEMPTIONS Rep. Bales

This bill provides a property tax exemption for an amount of fair market value of owner-occupied residential real property sufficient to limit to fifteen percent increases in the value of such property attributable to countywide appraisal and equalization programs. The bill specifies that the exemption includes value attributable to permanent improvements to the property after the implementation of the most recently completed countywide equalization program. The bill provides that the exemption is not transferred with the property except in specified circumstances in which a transfer is deemed not to have occurred.

H.3350 MILLAGE RATE INCREASE Rep. Bales

This bill revises current law regarding the limitation on a millage rate increase by a local governing body. The bill requires a two-thirds vote of the elected membership of the local governing body, rather than a positive majority vote, to override the limitation.

H.3351 ASSESSMENT OF PROPERTY TAXES Rep. Bales

This bill provides that a travel trailer which has sleeping, cooking, and bathroom facilities is also a primary or second residence for purposes of ad valorem property taxation and is considered real property rather than personal property for property tax purposes.

H.3352 TAX CREDIT FOR LONG-TERM CARE INSURANCE Rep. Bales

This bill allows a tax credit of fifteen percent of the total amount of premiums paid by a taxpayer pursuant to a long-term care insurance contract, up to three hundred fifty dollars for each taxable year for each contract. The bill also includes a provision which prohibits a credit for payments that are deducted or excluded from the taxpayer's income for the taxable year.

H.3353 PROPERTY TAX EXEMPTIONS Rep. Bales

This bill exempts from property tax, five thousand dollars of the fair market value of private passenger motor vehicles and motorcycles.

H.3355 SCHOOL BUS DRIVERS Rep. Bales

This bill provides that any school bus driver who worked an average of twenty-five hours or more per week during the previous school year shall be considered a permanent part-time employee of the school district during the current school year and shall be entitled to the same insurance, leave, and retirement benefits that other permanent part-time employees of the State receive.

H.3357 MEDICAID REIMBURSEMENT RATE REVIEW Rep. J. Brown

This bill requires the Department of Health and Human Services to review Medicaid provider reimbursement rates annually and adjust these rates to equal at least ninety percent of the Medicare provider reimbursement rate for like care, services, or treatment.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.net>) and click on the "Insider's Page," then click on "Legislative Update." This will list all of the *Legislative Updates* by date. Click on the date you need.

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LEGISLATIVE UPDATE

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